



An
Bord
Pleanála

Inspector's Report

ABP-320913-24

Development	Demolition of the existing third floor residential accommodation and to reinstate a hipped pitched roof to the existing three-storey building and all associated site works.
Location	46 Nicholas Street, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	24/60685
Applicant(s)	Philip Conway
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Philip Conway
Observer(s)	None
Date of Site Inspection	07 th February 2025
Inspector	Clare Clancy

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1.0 Site Location and Description

- 1.1. The appeal site is located on a prominent corner site, defining the streetscape at the junction of Nicholas Street and Athlunkard Street in Limerick city centre. St. Mary's Cathedral and grounds is located to the west. It adjoins the medieval façade of Bourke Castle and forms part of the streetscape fronting onto Athlunkard St. The appeal site is slightly elevated relative to the adjoining surrounds.
- 1.2. The subject development comprises of a three-storey structure with a vacant retail / commercial unit at ground floor level on the western facing elevation fronting onto Nicholas St. The southeast facing elevation fronting onto Athlunkard St comprises of a window and doors at ground floor level and windows at first and second floor. There is an advertising bill board mounted on the southeast elevation of the structure. The roof of the structure is of flat box design, and contains a balcony on the northeast elevation.
- 1.3. The streetscape of Athlunkard Street and Nicholas Street is generally characterised by two-storey terrace, hipped roof and 'A' pitch gable roof dwellings some of which have retail and commercial uses at ground floor level. The appeal site is adjoined to the northwest by a two-storey terrace with commercial / retail use at ground floor level and residential above.

2.0 Proposed Development

- 2.1. Permission is sought to demolish the existing third floor residential accommodation, and to construct a hipped roof to the existing third floor. The proposal will replace residential accommodation at the third floor with attic space. The following is noted:
 - The appeal site has a stated area of 0.011 ha. The gross floor area of the existing building is 372 m². The gross floor area of the proposed demolition works is stated to be 48 m² in the application form.
 - The existing structure comprises of a retail / commercial element at ground floor level which occupies the entire ground floor. The first floor accommodates 5 no. bedrooms, the second floor accommodates a kitchen, 3 no. bedrooms, a w.c. and bathroom.

- The third floor accommodates a 2 bed apartment, including 2 no. w.c.'s, a kitchen and a balcony. While not stated, and notwithstanding the stated gross floor area for demolition (48 m²), and having regard to the footprint of both the first and second floors, the gross floor area of the existing apartment is calculated to be c. 57 m².
- The existing development has a max roof height of 12.8 metres. In the drawings, the proposed development is shown to have a max roof height of 13.29 metres on the 'Proposed Front Elevation (S-W)' drawing and 13.49 metres on the 'Proposed Rear Elevation (N-E)' drawing, while it is shown on the 'Proposed Section B-B' that the roof height will be 11.97 meters.
- The floor area of the proposed attic space is not specified in the application details and no drawing for the floor plan of the attic is provided. The floor to ceiling height is indicated on the 'Proposed Section B-B' to be 1.61 metres while on the 'Proposed Section A-A' drawing it is calculated to be c. 2.3 m.
- Material finishes will comprise of natural slate and rendered masonry wall with concrete capping. A new timber encasement window is proposed to the northeastern side of the roof.
- As part of the planning application, an Architectural Heritage Impact Assessment Report is provided.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 30th August 2024, Limerick City and County Council refused permission for the following reason:

The proposed development has been subject to enforcement proceedings (DC-110-20) that resulted in an enforcement notice being issued to the developer which required the removal of the unauthorised structure from the roof and the reinstatement of the roof to its condition prior to the construction of the unauthorised structure. Accordingly it is considered that it would be

inappropriate for the planning authority to consider the grant of permission for the proposed development in such circumstances.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report dated 29th August 2024 forms the basis of the assessment and recommendation. The basis of the planning report is as follows:

- The nature of the application was unclear – permission was refused for a similar proposal.
- Noted the enforcement history relating to the subject development whereby an enforcement notice was issued July 2022 requiring the removal of the unauthorised roof structure and the reinstatement of the roof to its previous condition prior to the unauthorised development being carried out.
- It notes that planning permission is not required for the works as set out in the enforcement notice.
- Expressed concern that the proposal is another delay tactic by the applicant having regard to the planning history of the site concluding that in all cases, including an application refused by the Board (ABP Ref. 3028573-20), the applicant was refused retention permission for similar development proposals.

3.2.2. Other Technical Reports

- Fire & Emergency Services – No objection raised subject to conditions.
- Architectural Conservation – No objection raised and considered the proposal to replace the existing roof with a hipped slate roof appropriate welcoming the proposal, and recommended conditions relating to the material finishes to the rear gable wall, and works to historic fabric to be carried out in accordance with best conservation practices.
- Council Archaeologist – No objection raised. Recommended further information to provide additional details regarding finishing existing wall tops, specifications for mortar to be used, and how the roof will tie in with the existing fabric. Noted

that in the event of a grant, a Conservation Specialist shall be appointed to oversee, record and certify the works.

3.3. Prescribed Bodies

An Taisce Limerick – in summary the following is noted:

- Noted the overall planning history of the site related to the subject development.
- Noted that the subject development merges with the adjoining protected structure Bourke's Castle and that regard should be given to this.
- Noted the application refused by the Board ABP Ref. 308573-20 and the unauthorised development relating to the subject development and that all prior decisions of the planning authority be enforced.
- Noted the ongoing enforcement proceedings relating to the site.
- Raised concern regarding fire safety, the structural integrity of the building, a number of existing bedrooms that are windowless and the proposed three windowless bedrooms, the intended use of the proposed attic space and how it will be accessed.

3.4. Third Party Observations

3.4.1. One third party observation was received in regard to the proposed development. The following is noted:

- The site is a recorded monument and was not referenced on the site notice which is grounds to invalidate the planning application.
- Two bedrooms at first and second floor levels do not have windows and do not have access to daylight and do not qualify as habitable rooms.
- Raised concern regarding the structural integrity of the back wall of the structure.
- Noted that there are 2 no. existing substandard apartments.

4.0 Planning History

Appeal Site

- P.A. Ref. 03/770409 – Permission granted for change of use of an existing shed to a bar area, and to relocate existing toilets and services.
- P.A. Ref. 09/770272 – Retention permission granted for 3 existing antennae, 2 transmission dishes and associated cabins.
- P.A. Ref. 12/770182 – Retention permission granted for 3 existing antennae, 2 transmission dishes and associated cabins.
- P.A. Ref. 20/803 – ABP Ref. 308573-20 – Retention permission refused for the removal of the existing roof structure and the construction of a third floor within a revised roof structure for residential accommodation. Permission was refused to erect a fire escape external stairs to the northeast gable of the building (March 2021). The grounds for refusal is as follows:

Having regard to the location of the existing development within the historic medieval core of Limerick City, to its prominent siting at the junction of the historic streets of Nicholas Street and Athlunkard Street and to its proximity to the adjacent Protected Structure and Recorded Monument known as Bourke's Castle, the Board considered that the nature, materials, finish and lack of fenestration of the development to be retained and the consequent bulk and massing of the structure would seriously injure the visual amenities of the area. The proposed development would therefore, not be in accordance with the proper planning and sustainable development of the area.

- P.A. Ref. 23/527 – Retention Permission refused for the existing third floor residential accommodation within revised roof structure. Permission refused for external fire escape stairs at third floor level on northeast elevation (21st December 2023).

Enforcement History

DC-110-20 – Enforcement notice issued in regard to unauthorised development. The terms of the enforcement notice required works to cease, and details to be submitted for the reinstatement of the roof. Court proceedings instituted and ongoing.

4.1. Policy Context

4.2. Limerick Development Plan 2022-2028

The relevant policy and objectives of the current CDP include the following:

- Land Use Zoning

The appeal site is zoned 'City Centre'

Objective: To protect, consolidate and facilitate the development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.

Purpose: To consolidate Limerick City Centre through densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses and urban streets, while delivering a high quality urban environment which will enhance the quality of life of residents, visitors and workers alike. The zone will strengthen retail provision in accordance with the retail strategy for the Limerick Shannon Metropolitan Area and County Limerick, while minimising the impact of private car based traffic and enhancing the existing urban fabric.

- Built Heritage

The appeal site adjoins the curtilage of Bourke's Castle a Protected Structure (RPS 11) and a Recorded Monument (RMP Ref. No. Li-005-017003).

The following policies and objectives are relevant:

Policy EH P5 Protection of the Built Environment

It is a policy of the Council to promote high standards for conserving and restoring the built environment and promote its value in improving living standards and its benefits to the economy.

Objective EH O36 Preservation of the Archaeological Heritage

It is an objective of the Council to seek the preservation of all known sites and features of historical and archaeological interest. This is to include all the sites listed in the Record of Monuments and Places as established under Section 12 of the National

Monuments (Amendment) Act 1994. The preferred option is preservation in situ, or at a minimum preservation by record.

Objective EH O39 Protection of the setting of Archaeological Monuments

It is an objective of the Council to ensure that no development shall have a negative impact on the character or setting of an archaeological monument.

Objective EH O50 Work to Protected Structures

It is an objective of the Council to:

- a) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- b) Ensure that any development proposals to Protected Structures, their curtilage and setting, shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities published by the Department of the Arts, Heritage and the Gaeltacht.
- c) Ensure that all works are carried out under the supervision of a qualified professional with specialised conservation expertise.
- d) Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/ or its setting, is sensitively sited and designed and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
- e) Ensure that the form and structural integrity of the Protected Structure is retained in any redevelopment and that the relationship between the Protected Structure and any complex of adjoining buildings, designed landscape features, or views and vistas from within the grounds of the structure are respected.
- f) Respect the special interest of the interior, including its plan form, hierarchy of spaces, architectural detail, fixtures and fittings and materials.
- g) Support the re-introduction of traditional features on protected structures where there is evidence that such features (e.g. window styles, finishes etc.) previously existed.
- h) Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

- i) Protect the curtilage of Protected Structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds, that would adversely impact on the special character of the Protected Structure.
- j) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- k) Ensure historic landscapes and gardens associated with Protected Structures are protected from inappropriate development.

4.3. Natural Heritage Designations

- SAC Lower River Shannon Site Code 002165 – approx. 195 m to the west.
- pNHA Fergus Estuary And Inner Shannon, North Shore Site Code 002048 – approx. 195 m to the west.
- SPA River Shannon & River Fergus Estuaries SPA Site Code 004077 – approx. 1 km to the southwest.

5.0 EIA Screening

- 5.1.1. Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 10(b)(iv) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 5.1.2. Refer to Form 2 in Appendix 1 (EIA Preliminary Examination). Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that there is no real likelihood of significant effects on the environment arising. The proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) and I do not consider that any characteristics or locational aspect (Schedule 7) apply. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. See Form 1 and Form 2 appended to report.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party grounds of appeal may be summarised as follows:

Purpose and Extent of Planning Application

- It is intended to regularise unauthorised development and to formalise in a planning permission the nature and extent of the removal of unauthorised development and associated accommodation works, repairs etc. It is not proposed to preserve or retain any works.
- The planning authority is of the view that the proposed development is identical to the requirements of the enforcement notice.
- The enforcement notice requires the removal of the unauthorised structure from the roof, and the reinstatement of the roof to its condition prior to the construction of the unauthorised structure.
- The 'prior condition of the roof' is not feasible or suitable in terms of the standard / materials of the roof at that time, and it would not be in keeping with current standards.
- The previous roof was damaged and specified with lower quality materials e.g. fibre cement slates or similar, the proposed development will provide a higher quality roof.
- The reinstatement / repair type works could lead to unexpected and / or unintended consequences e.g. ABP Ref. RI91.RL3335 relating to roof repairs at no.'s 5 and 6 Nessan's Park, Dooradoyle where misunderstanding appeared to have arose in relation to that the original condition and colour of the roofs which could potentially arise in relation to this development.

Enforcement

- The application is a consequence of enforcement proceedings. Submissions were made that a planning application would be lodged to resolve the unauthorised development.

- The decision of the planning authority appears to consider the enforcement notice as the conclusion of the process, however there have been subsequent actions in terms of proceedings which should take precedence rather than the notice, further supporting the rationale for the subject application.
- The status of the enforcement notice is not challenged, however court submissions may to some extent supersede or add further context to the notice, and therefore court submissions should be allowed to be exercised to its conclusion.
- The planning application process is independent of the enforcement process.
- The applicant has not been afforded the opportunity to have the proposed development assessed on its merits.
- The planning authorities view that this application is another delay tactic by the applicant is speculation and should not materially inform the outcome of a planning application where the merits of the proposed development should be the only determining factors.
- The judgement of *Murphy v An Bord Pleanála* confirms that the planning authority and the Board are required to consider the proposal as presented before them and are not required to take account of additional issues and in this regard, the planning authority or the Board need not dwell on the enforcement history of the subject site, but rather on the merits of the proposal.

Planning History

- The planning history of the site in particular the applications that were refused related to attempts to regularise and reserve to varying degrees unauthorised development.
- The proposed development seeks to remove the unauthorised development in a different fashion to the terms of the enforcement notice. As a result a change in circumstances arises in terms of the planning history of the site which renders it moot, as confirmed by Scannell Y. (2006) who states "...a change in circumstances can easily justify a difference decision".

- In considering different applications, the judgment of different assessors and the validity of diverging or subsequent conclusions is relevant e.g. North Wiltshire District Council v Secretary of State for the Environment. Refusal of the preservation of unauthorised development may have been reasonable and proportionate in previous cases, but that does not help to justify a refusal of permission in the this instance given the significant ‘change in circumstances’ arising, which relates to the removal of the unauthorised development.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. Introduction

I note the decision of the planning authority to refuse the subject development to which this first party appeal seeks to overturn. In particular it is noted that the planning authority did not consider it appropriate to consider a grant of permission, having regard to the enforcement proceedings relating to the appeal site. While that may be the position of the planning authority, this assessment considers the planning merits of the proposed development, and is in effect, not influenced by the previous determined permissions related to the site. The planning merits of the subject proposed development are therefore considered in this appeal, and it is noted that matters relating to unauthorised development are matters for the council, to which the Board has no role in, in this case. This assessment represents my *de novo* consideration of all planning issues material to the proposed development including the issues raised by the first party appellant and third party submissions made to the planning application.

- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local

authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is the following:

- Design and Form
- Nature of Use
- Impact on Architectural Heritage
- Impact on Archaeological Heritage
- Procedural Matters

7.3. Design and Form

- 7.3.1. Permission is sought to demolish the existing third floor residential accommodation, and to construct a hipped roof to the existing third floor. This application relates primarily to the third floor of the existing building, and the roof. The proposal will replace residential accommodation at the third floor with attic space and a hipped roof will replace the existing flat roof structure.
- 7.3.2. The existing building comprises of a three storey development including basement that incorporates a retail / commercial unit at ground floor level and residential above at first and second floor levels. The third floor also contains residential accommodation. There is own door access from both Athlunkard Steet and Nicholas Street.
- 7.3.3. The substantive issue that arises is in relation to the proposed roof structure in terms of the design profile, material finishes and its visual appearance and impact relative to the surrounding area.
- 7.3.4. The appeal site adjoins the remains of the front medieval façade of Bourke's Castle which is a protected structure (RPS 3011) and a recorded monument (LI005-017003). I note that this area of the city is rich in architectural heritage, whereby the form, design, street layout and streetscapes are influenced by the medieval period. St Mary's Cathedral and grounds which is also a protected structure, are located to the west. Therefore particular regard must be given to the distinct historic character of the area.

- 7.3.5. I note that the prevailing roof profile in the area is hipped / 'A' pitched and that the subject development previously contained an 'A' pitched roof profile. This is evident from drawings relating to the Boards previous decision under ABP Ref. 308573. The proposed development will replace the existing roof structure which the Board previously refused retention for, and which is unauthorised development and the subject of current enforcement proceedings and a number of planning applications which also sought to retain it. It will be stepped back from the rooftop parapet as indicated on the proposed roof plan. A window will be provided on the northeast elevation. I note that the pre-existing window was similar in form and size and accordingly I have no objection to this proposal. In my view the new roof structure reflects that of what previously existed on the building, prior to the unauthorised development carried out.
- 7.3.6. I note that there are inconsistencies in the 'proposed drawings' with regard to the proposed overall height for the roof and it is therefore unclear what the actual proposed height will be. I note that the previous roof had a max height of 12.95 metres (as per drawings 363-1-05 relating to ABP. Ref. 308573). The existing roof has a stated max height of 12.80 m and the proposed roof will be between 11.97 m and 13.49 m. I note also that there is inconsistencies between the proposed floor to ceiling height which is indicated to be 1.61 m on the 'Proposed Section B-B' and calculated to be approx. 2.3 m on the 'Proposed Section A-A'. The attic floor plan has not been provided. Having reviewed the drawings and notwithstanding the inconsistencies on the plans, I am satisfied that there is sufficient information for a full assessment of the appeal to be carried out.
- 7.3.7. Under the current proposal, in using the proposed max roof height of 13.49 m, it is noted that the new roof would be approx. 0.69 m higher than the existing roof, and approx. 0.54 m higher than the original previous roof. The proposed roof relative to the existing roof is smaller in portion and mass which will serve to lessen the visual impact and therefore will not be as obtrusive in comparison to that already existing.
- 7.3.8. I note that the Architectural Conservation Officer of the council considered the new proposal appropriate and therefore acceptable recommending in the event of a grant conditions, in particular that the proposed coping to the reconstructed rear gable wall is finished in appropriate stone rather than concrete. I consider that the proposed form, finishes and the simple design to be acceptable in this regard. While higher than the

pre-existing roof, it appropriately integrates with the existing building and assimilates with the character of the area and is therefore acceptable.

- 7.3.9. Should the Board decide to grant permission, I recommend in the interests of clarity, that a pre-development condition is included to agree the overall height of the new roof with the planning authority. In relation to material finishes, I recommend a pre-development condition for same to be agreed with the planning authority, and an additional condition in regard to works being carried that may relate to any historic fabric to be undertaken with appropriate conservation methods under the guidance of a conservation architect. Objective EH O52 of the development plan sets out a number of criteria to be met with respect to development relating to protected structures and I consider that such conditions would be in accordance with these requirements.

7.4. Nature of Use

- 7.4.1. I note the matters raised in regard to the use of the existing building in submissions to the planning application with specific reference to the existing residential accommodation element. This application refers to the third floor and will remove the exiting third floor residential apartment unit.
- 7.4.2. I note the report of the Local Authorities Fire and Emergency Services section who have not objected to the proposed development and recommended conditions in the event of a grant which relate to Technical Guidance Document B Fire Safety of the Building Regulations.
- 7.4.3. The issue of compliance with Building Regulations will be evaluated under separate legal code and thus need not concern the Borad for the purposes of this appeal. Notwithstanding, should the Board decide to grant permission, I would recommend the inclusion of a condition to restrict the use of the third floor to attic / storage purposes only and not for human habitation.

7.5. Impact on Architectural Heritage

- 7.5.1. The significance of the architectural heritage of the area and the defining streetscape is already highlighted above and is further highlighted by the submission from An Taisce. Notwithstanding the historic core and its rich architectural heritage, I note that the appeal site and the immediate area do not form part of an Architectural

Conservation Area (ACA). I note that it is an objective of the council under Objective EH O52 of the development plan to safeguard works carried out to protected structures so that such works do not negatively impact of their special character and appearance.

7.5.2. I note that in support of the application, an Architectural Heritage Impact Assessment of the proposed development is submitted which provides a detailed appraisal of the fabric of the existing building. It notes that there are minimal details of architectural significance to the existing building and that the significance of the building itself is the general form, materials, footprint and the prominent location that it occupies within this historical context which I would concur with. It also notes water ingress at third floor level and impacts arising to the existing built fabric. It recommends that any demolition works to remove the third floor structure is monitored to record the condition of the existing fabric to the masonry parapets and the use of appropriate materials i.e. natural slate, clay ridge, hip tiles and lead flashing.

7.5.3. I note the appeal site's location relative to the adjoining protected structure and the prominent position that the existing building occupies on elevated land relative to its surrounds. The proposed development will replace the existing third floor roof with a hipped slate roof the form, scale and massing for which is reduced and simpler. I do not consider that the proposed development will have a direct impact to the adjoining protected structure or its curtilage, or to the cultural heritage of the surrounding area. In this regard, I conclude that the proposed development will not be visually intrusive on the streetscape or the wider area, will adequately integrate with the existing building, and will not be incongruent or will unduly impact of the architectural character of the area or the historic landscape of the area. The proposed development would therefore be in accordance with Objective EH O50 of the development plan.

7.6. Impact on Archaeological Heritage

7.6.1. It is noted that Bourke's Castle is designated as a Recorded Monument. The Local Authority Archaeologist noted that the appeal site may contain late medieval fabric having regard to masonry fabric of such stone buildings of the 15th and 16th centuries which is important to the city's heritage. No objection was raised to the proposed development, but it was recommended that detailed specification in regard to the

finishing of the existing wall tops and mortar to be used was required in addition to the appointment of a Conservation Specialist.

- 7.6.2. It is evident from the photographic survey carried out on the internal fabric of the existing building that the building fabric comprises of old stone masonry walls however, I note that such old masonry walls do not extend to the third floor which is of plasterboard partition. However, I concur with the assessment of the Archaeologist and recommend in the event of a grant a condition to require detailed specifications of the existing built fabric, of proposed material finishes and construction method of how the proposed roof will be integrated to the existing parapet roof top and fabric. Nevertheless, I do not consider that the requirement for archaeological monitoring is warranted as the proposed development does not relate to ground works and the requirement for a conservation specialist can be facilitated in tandem with expertise required for protection of architectural heritage.

7.7. Other Matters

Procedural Matters

- 7.7.1. In noting the planning history of the site and the unauthorised development as highlighted by the planning authority, I acknowledge the concerns of the planning authority as reflected in the decision to refuse permission, however I am satisfied that my assessment of the proposed development has given due consideration to the issues raised in the grounds of appeal and in the planning application and that the proposed development is appropriate and is acceptable. Notwithstanding and where the Board is minded to grant permission, I consider that it would be appropriate in this case to include a condition restricting the life of the planning permission to 3 years to ensure that the proposed development is carried out in a timely manner and to the satisfaction of the planning authority, particularly in terms of material finishes and construction phase. In this regard I recommend the inclusion of such a condition.

8.0 AA Screening

- 8.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

- 8.1.2. The subject site is located approx. 195 m to the east of the SAC: 002165 Lower River Shannon SAC, pNHA: 002048 Fergus Estuary And Inner Shannon, North Shore. The SPA: 004077 River Shannon and River Fergus Estuaries SPA lies approx. 1 km to the southwest of the appeal site.
- 8.1.3. The proposed development comprises the demolition of the existing third floor residential accommodation, and the construction of a hipped roof to the existing third floor. The proposal will replace residential accommodation at the third floor with attic space.
- 8.1.4. No conservation concerns were raised in the planning appeal.
- 8.1.5. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

The reason for this conclusion is as follows:

- The location and nature of the existing commercial / residential development in a serviced urban area and on zoned lands.
 - Location-distance from the nearest European Sites and lack of connections, and
 - Taking into account the AA Screening determination by the planning authority.
- 8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European side either alone or in combination with other plans or projects.
- 8.1.7. Likely significant effects are excluded and therefore appropriate assessment (stage 2) (under Section 177V of the Planning and Development Act 2000 as amended) is not required.

9.0 Recommendation

I recommend that permission for the development is granted subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the prominent location and setting that the existing building occupies at the junction of the historic streets of Nicholas Street and Athlunkard Street within a significant historic core of Limerick City centre, its immediate proximity to Bourke's Castle a designated protected structure and recorded monument, it is considered that the proposed development would adequately integrate with the existing building by reason of its design, scale, bulk, and material finishes, would not detract significantly from the architectural integrity and historical significance of the adjoining historic streetscapes, and would respect the character and visual amenities of the adjoining protected structure and wider area, in accordance with Objective EH O50 of the Limerick Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and retained in accordance with the plans and particulars lodged with the planning application on the 10th July 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be 3 years from the date of this Order.</p> <p>Reason: Having regard to the nature of the development and its location within the historic core of Limerick City, the Board considers it appropriate to specify a period of validity of this permission less than five years.</p>

3.	<p>Prior to commencement of development, the developer shall submit revised plans, elevations and sections to the Planning Authority for written agreement, to agree the overall height of the proposed roof.</p> <p>In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.</p> <p>Reason: In the interest of clarity and orderly development.</p>
4.	<p>Prior to the commencement of development, the external finishes of the proposed development and samples of materials shall be submitted for the written agreement of the planning authority, and all works shall be carried out in accordance with this written agreement. In the event of agreement not being reached between the developer and the planning authority, the matter may be referred to An Bord Pleanála for determination, and all works shall be carried out in accordance with any determination made resulting from such referral.</p> <p>Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the “Architectural Heritage Protection Guidelines for Planning Authorities”.</p>
5.	<p>Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, a detailed method statement covering all works proposed to be carried out, including:</p> <ul style="list-style-type: none"> (a) A full specification, including details of materials and methods, to ensure the development is carried out in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage & the Gaeltacht. (b) A full specification of finishings of the existing wall tops. (c) The specifications for the mortar to be used throughout the build. (d) Details of how the roof will be integrated to the existing parapet roof top. (e) Methodology for the recording and/or retention of concealed features or fabric exposed during the works including the existing parapet roof top and fabric.

	<p>(f) Details of features to be temporarily removed/relocated during construction works and their final re-instatement.</p> <p>(g) Protection of the existing historic fabric during the construction works.</p> <p>(h) Materials/features of architectural or archaeological interest to be salvaged.</p> <p>(i) Details of any rainwater goods or bargeboard which where possible shall be repaired and reused, the replacement of which (if any) shall match the original in terms of design and materials.</p> <p>(j) Details of proposed window(s) which shall be modelled on surviving windows and shall match them in dimensions, opening mechanism, profiles and materials.</p> <p>Details to be accompanied by drawings of an appropriate scale of not less than [1:50] in respective of the proposed roof plan and any elements there of.</p> <p>Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the “Architectural Heritage Protection Guidelines for Planning Authorities”.</p>
6.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority confirmation that:</p> <p>(a) the development will be monitored by a suitably qualified architect with conservation expertise and accreditation and</p> <p>(b) competent site supervision, project management and crafts personnel will be engaged, suitably qualified and experienced in conservation works.</p> <p>Reason: In the interest of the protection of architectural heritage in accordance with the provisions of the “Architectural Heritage Protection Guidelines for Planning Authorities”.</p>
7.	<p>The attic shall be for storage purposes only. It shall not be used for human habitation.</p> <p>Reason: In the interest of clarity.</p>

8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>Construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off site disposal of construction demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Clare Clancy
Planning Inspector

08th April 2025

Form 1 EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320913-24		
Proposed Development Summary	Demolition of the existing third floor residential accommodation and to reinstate a hipped pitched roof to the existing three-storey building and all associated site works		
Development Address	46 Nicholas Street, Limerick City		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	<input checked="" type="checkbox"/>
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	<input checked="" type="checkbox"/>	Class 10(b)(iv) – Urban development	Proceed to Q3.
No	<input type="checkbox"/>		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	<input type="checkbox"/>		EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes	✓	<p>Class 10(b)(iv) – Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. ("business district" means a district within a city or town in which the predominant land use is retail or commercial use).</p> <p>The appeal site is located in Limerick city centre. It comprises of an existing structure with commercial / retail use at ground floor level and residential above. It is located in the urban area. The site and adjoining area is zoned and is serviced. It has a stated site area of 0.011 ha which is below the stated threshold of 2 ha.</p>	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320913-24
Proposed Development Summary	Demolition of the existing third floor residential accommodation and to reinstate a hipped pitched roof to the existing three-storey building and all associated site works
Development Address	46 Nicholas Street, Limerick City
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The appeal site is located in an urban area that is serviced and forms part of urban streetscape. It is not exceptional in the context of the surrounding area and development.</p> <p>A short-term construction phase would be required and the development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale. The development, by virtue of its type and nature, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. Its operation presents no significant risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use,</p>	<p>The development is situated in an urban area and is prominent corner site at a busy road junction. The scale of the development proposal is not considered exceptionable in the</p>

abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	context of surrounding development. It is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the development plan. It is adjoins the curtilage of a protected structure however the development would not significantly impact the character or architectural integrity of that building.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature and limited scale of the proposed works to the existing development, the urban context and serviced land, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in Section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)